

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ECOLAB PRODUCTION LLC
Employer

and

Case 16-RC-264667

RETAIL, WHOLESALE, AND
DEPARTMENT STORE UNION
Petitioner

ORDER

The Employer's Emergency Request for Stay of Mail Ballot Election is granted. The Employer's Request for Review of the Regional Director's Decision and Direction of Election also is granted, as it raises substantial issues warranting review.

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

Dated, Washington, D.C., October 1, 2020.

MEMBER McFERRAN, dissenting.

I would deny the Employer's requests for a stay and review of the Regional Director's decision to order a mail-ballot election due to the threat posed by the COVID-19 pandemic. The mechanics of an election, including whether it is to be conducted by mail ballot, lie within the discretion of the Regional Director. See *San Diego Gas & Electric*, 325 NLRB 1143, 1144 (1998). Here, the Regional Director clearly and rationally considered all the relevant circumstances, including those supporting the Employer's argument for a manual election, but on balance concluded that a mail-ballot election was warranted in this case. Although individual Board Members might themselves have struck the balance differently were they deciding the case in the first instance, that is not the applicable standard. Applying the correct standard, there is no basis to conclude that the Regional Director "clearly abused" his discretion. *National Van Lines*, 120 NLRB 1343, 1346 (1958). Accordingly, I dissent.

Dated, Washington, D.C., October 1, 2020.

LAUREN McFERRAN, MEMBER